

House version exemption (b)(1)

"(b)(1) authorized under criteria established by an Executive Order to be kept secret in the interest of the national defense or foreign policy."

The Senate receded on the rewording of exemption (b)(1). Certain categories of information protected by statute, Restricted Data (42 U. S. C. 2162), Communication Intelligence (18 U. S. C. 798), and Intelligence Sources and Methods (50 U. S. C. 403(d)(3) and g), are "born classified" and exempted under exemption (b)(3) of the Freedom of Information Act. If such information is ever subjected to court review, it is expected that in such cases the court will recognize that the latitude for discretion permitted under Executive Order 11652 does not apply to such information.

Senate version exemption (b)(1)

"(b)(1) specifically required by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are in fact covered by such order or statute."

The House receded on the rewording of exemption (b)(1). Certain categories of information protected by statute, Restricted Data (42 U. S. C. 2162), Communication Intelligence (18 U. S. C. 798), and Intelligence Sources and Methods (50 U. S. C. 403(d)(3) and g), are "born classified" and exempted under exemptions (b)(3) as well as (b)(1) of the Freedom of Information Act. If such information is ever subjected to court review it is expected that in such cases, the court will recognize that the latitude for discretion permitted under Executive Order 11652 does not apply to such information.